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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,651	07/13/2006	Michael Vossing	KMG-001	1665
52554 7590 10/15/2008 MONAHAN & MOSES, LLC 13-B W. WASHINGTON ST. GREENVILLE, SC 29601				
EXAMINER				
LEE, REBECCA Y				
ART UNIT		PAPER NUMBER		
4181				
MAIL DATE		DELIVERY MODE		
10/15/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/564,651

Applicant(s)

VOSSING ET AL.

Examiner

REBECCA LEE

Art Unit

4181

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 46-78 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 46-78 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/55/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 46-61, drawn to a composition of an iron (II) sulphate-containing reducing agent.

Group II, claim(s) 62, drawn to the use of the iron (II) sulphate-containing reducing agent.

Group III, claim(s) 63-74, drawn to a method of reducing the soluble chromate in cement.

Group IV, claim(s) 75-78, drawn to a composition comprising cement.

2. The inventions listed as Groups I-IV do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: the common feature shared by these 4 inventions is the iron (II) sulphate-containing reducing agent containing precipitate. However this common feature fails to become a special technical feature because to use iron (II) sulphate-containing reducing agent to reduce the soluble chromate content in cement could be done in different manner such as the ferrous sulfate is coated with an oxidation preventing coat. (Rasmussen, US 4572739, claims 1-8) or to form different cement composition such as a dry cement composition to substantially chemically reduce the water-soluble chromate when water is added. (Rasmussen, US 4784691, claim1). Therefore, the inventions of group I-IV lack unity.

3. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

1) The species are as follows:

The first category contains different ways to reduce the amount of sulphuric acid adhering to the separated precipitate.

1(a) by washing with water, diluted acid, saturated FeSO_4 solution or diluted FeSO_4 -containing aqueous solution (**claim 57**).

1(b) by displacement with compressed air or by washing with steam (**claim 58**).

1(c) by reacting the separated precipitate with water and metallic iron or an alkaline iron (II) compound at a temperature of greater than 60°C (**claim 59**).

1(d) by means of partial neutralisation or neutralisation by adding powdered alkali compounds, selected from the group consisting of CaCO_3 , CaO , Ca(OH)_2 , MgO and/or Mg(OH)_2 or elutriations thereof (**Claim 60**).

1(e) to reduce of the amount of sulphuric acid adhering to the separated precipitate or follow partial neutralisation or neutralisation of the residual acid in the separated precipitate, a defined amount of water, an aqueous saline solution or a diluted sulphuric acid is added, and granulation takes place (**Claim 61**).

2). The second category contains different methods of iron (II) sulphate-containing reducing agent addition:

2(a) the reducing agent is added after milling or before or during filling in packages or bulk containers or transport containers (**claim 65 and 71**).

2(b) the reducing agent is first added to the cement when it is used, in that the iron(II) sulphate-containing reducing agent is added to the cement during mixing with

water, or directly before or directly after the cement is mixed with water (**claim 67 and 73**).

Applicant is required, in reply to this action, to elect **a single species from each category** to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The species are independent process to each other, regarding to the generic claim.

The following claim(s) are generic: 56, 63 and 69.

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: for claim 57-61, the precipitation is achieved from different approaches. They are unrelated to each other. For claim 65 and 67 (or 71 and 73), the iron (II) sulphate-containing reducing agent is added to the solution in different manners. The same or similar results could be obtained through every single different approach.

4. A telephone call was made to Timothy Monahan on 09/17/08 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Rejoinder Practice

6. The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder.

All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder.** Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

Conclusion

All claims are subjected to restriction.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to REBECCA LEE whose telephone number is (571)270-5856. The examiner can normally be reached on Monday-Friday 8:00 am - 5:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vickie Kim can be reached on 5712720579. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RL

/Vickie Kim/
Supervisory Patent Examiner, Art Unit 4181